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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,663

02/09/2006

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026032-4926

4260

22428 7590 03/16/2010  
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EXAMINER

RUSHING, MARK S

ART UNIT

PAPER NUMBER

2612

MAIL DATE

DELIVERY MODE

03/16/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,663	<b>Applicant(s)</b> SHEARER, CARL L	
	<b>Examiner</b> Mark Rushing	<b>Art Unit</b> 2612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10,16-18 and 21-30 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7,9,10,16-18 and 21-28 is/are allowed.
- 6) ☒ Claim(s) 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Status of the Claims***

1. This is in response to applicant's amendment filed 2/5/10. Claims 1-7, 9, 10, 16-18 and 25-29 have been amended and Claims 8, 11-15, 19 and 20 have been cancelled. Therefore, Claims 1-7, 9, 10, 16, 17, 18 and 21-30 are pending in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teich (US 2003/0016139) in view of Chuey et al. (US 7,050,794).

Regarding Claim 29, Teich discloses a method of training a transmitter to a receiver in a fixed code radio frequency control system (Abstract, Fig 1), the improvement comprising:

identifying (*"identifies its source"* [0022]) a fixed code encryption algorithm for use with the receiver (*algorithm is defined as a step by step problem solving procedure, Teich's changing "its ID to a new pseudo-random value" [0022], reads on the fixed code encryption algorithm*), and in response to a single user input ([0046]) using the identified fixed code encryption algorithm to provide at least two values and transmitting the two values to the receiver (*the first value of the code is what "identifies the source", the second value is the "new ID code" [0022]*).

However, Teich doesn't disclose a rolling code encryption algorithm identified from among a plurality, used to transmit two sequential counter values.

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Chuey discloses a rolling code-based radio frequency control system (Abstract; Fig 3;) that identifies (*identifying is done when "counter 106 matches counter 114"* Col 6 Lines 1-3) a rolling code encryption algorithm (108 of Fig 3), from among a plurality of rolling code encryption algorithms (*102 is one algorithm, 108 is a second algorithm*, Col 5 Lines 32-47), that provides at least two sequential counter values using the identified rolling code encryption algorithm (*"after each activation the counter is incremented"* Col 5 Lines 1-5; also see Col 5 Lines 48 – Col 6 Line 5).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Teich with Chuey in order to ensure a successful transmission of the desired actuation as suggested by Chuey (Col 1 Lines 62-66), using a well know alternative embodiment.

Regarding Claim 30, Teich discloses a method comprising sending the same transmitter identifier with the message, wherein the message causes the receiver to open a garage door (Abstract, Fig 1).

However Teich doesn't disclose using sequential counter values in messages to open a garage door.

In the same field of endeavor, Chuey discloses using sequential counter values in messages to open a garage door (Abstract, Fig 3, Col 5 Lines 32-47).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Teich with Chuey in order to ensure a successful transmission of the desired actuation as suggested by Chuey (Col 1 Lines 62-66).

***Response to Arguments***

4. Applicant's arguments, see below, filed on 2/5/10, with respect to Claims 1, 16 and 25 have been fully considered and are persuasive. The rejections of Claims 1-7, 9, 10, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27 and 28 have been withdrawn.

**Arguments:**

a. Applicant respectfully submits that Teich and Chuey, in any appropriate combination, do not disclose, teach, or suggest the transmission of sequential encrypted rolling code values in response to a single user input and in accordance with an identified rolling code encryption algorithm.

b. Applicant respectfully submits that Teich and Chuey, in any appropriate combination, do not disclose identifying a rolling code encryption algorithm for later use in training mode synchronization with the remote system.

c. Teich does not mention any activity relating to identifying "a rolling code encryption algorithm for use with the remote system from a plurality of rolling code encryption algorithms." Further, Teich does not disclose its transmitter as having any features for learning the encryption algorithm of the remote system or for learning about an original transmitter.

d. Chuey also teaches an approach that does not include identifying a rolling code encryption algorithm for later use in training mode synchronization with the remote system. As explained in previous replies, Chuey sends a sequence of activation signals corresponding to different rolling code schemes (see Chuey, Fig. 14, reproduced below, and accompanying description).

e. Unlike Chuey, in the present application, the "at least two messages having sequential

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encrypted rolling code values" are transmitted "in accordance with the identified rolling code encryption algorithm." First, Chuey does not disclose the transmission of sequential encrypted rolling code values according to a single rolling code encryption algorithm during a training mode.

f. Second, Chuey's system is still searching for a scheme (e.g., including an encryption algorithm) to use with the remote system during Chuey's sequential transmission of different schemes. Accordingly, because Chuey has not yet acquired the proper scheme for further synchronization with the remote system, Chuey's scheme transmission activity does not disclose, teach, or suggest the transmission of "messages having sequential encrypted rolling code values in accordance with the identified rolling code encryption algorithm."

g. Applicant respectfully submits that Chuey's transmission of an activation code for a first scheme followed by an activation code of a second scheme is not the same as synchronizing "a rolling code count of the remote system with a rolling code count of the radio transmitter during the training mode by transmitting, in response to a single user input, at least two messages having sequential encrypted rolling code values in accordance with the identified rolling code encryption algorithm" as recited in amended Claim 1.

h. Applicant respectfully submits that Teich and Chuey are improperly combined. The Examiner stated that "it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Teich with Chuey in order to ensure a successful transmission of the desired actuation as suggested by Chuey." This proposed motivation, however, ignores that the teachings of Teich and Chuey conflict. The teachings conflict such that the proposed modification of Teich with Chuey would render Teich unsatisfactory for its intended purpose.

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Further, the teachings conflict such that the proposed modification of Teich with Chuey would change Teich's principle of operation.

i. Teich describes, in para. [0029] that this configuration provides multiple advantages such as allowing "the user to make another attempt to have the GDO learn the code of the transmitter" and allowing the "programming [of] two GDOs using a common transmitter." Teich further explains that "[b]ecause the teach packets sent in the latent teach state are **unchanged** from the packets used to program the first GDO, the second GDO can be taught the same ID code as the first one. This allows both GDOs to honor commands from a common transmitter." (Teich at para. [0029]).

j. Teich clearly states that "for the purpose of this description, the transmitter address code can be said to be fixed" (as opposed to rolling) (Teich at para. [0012]).

k. The Applicant respectfully submits that Chuey's teaching of the transmission of different messages from different rolling code schemes conflicts with and would change Teich's principle of operation - repetition of the same teach message.

Responses:

5. As stated above, the arguments for Claims 1, 16 and 25 are persuasive and the claim language distinguishes the differences clearly over the prior art.

Regarding independent Claim 29, the Examiner is responsible for giving the claims their broadest reasonable interpretation. Therefore, Teich and Chuey in combination still read on the claim language.

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***Allowable Subject Matter***

6. Claims 1-7, 9, 10 16, 17, 18, 21, 22, 23, 24, 25, 26, 27 and 28 are allowed.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rushing whose telephone number is (571)270-5876. The examiner can normally be reached on Monday-Friday 8:30AM to 5:00PM EST (Alt Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MR/

/Daniel Wu/

Supervisory Patent Examiner, Art Unit 2612